

## Draft 7 Gravel Ordinance – Unresolved Concerns

### **Notation 1**

#### Section 6 – Applicability

The working subcommittee has developed language in regard to applicability to clarify that this ordinance does not apply to excavation required to activity like building a house or a subdivision, but that the Planning Board must determine that the permit issued for such activity does not require a gravel permit.

### **Notation 2 (Proposed Operations)**

#### Section 7 C 4 possible letter “j”

One of the louder objections in recent years about gravel pits is noise from machinery located within the pits – i.e. crushers and screens. It seems logical to request of the applicants to indicate where such machinery would be located within the operations area.

### **Notation 3 (End of “New” application section)**

#### Section 7 C

The Selectmen have expressed a desire for a more abbreviated “renewal” application and process. Concern has been expressed throughout the discussion about uncertainty of renewal even if the permit holder has followed all the rules. This “new” application section does not yet provide for a renewal process.

### **Notation 4 (Length of Permit)**

#### Section 7 F

There was a discussion in the drafting group about extending the length of a permit from 3 to 5 years. This might possibly address the issue of a renewal process, certainly take a lot of pressure off future Planning Boards, and require longer term planning by the gravel operators.

### **Notation 5 (Appeals of Enforcement)**

#### Section 7 H

This section should take care of the concern that enforcement actions of the CEO were previously not able to be appealed to the Board of Appeals. Perhaps this should be expanded further to clarify that this is a little different than a permit issuance appeal and as such should be a “de novo” appeal.

### **Notation 6 (Prosecution)**

#### Section 7J4a

“such actions or proceedings at law or in equity” is interesting language – not sure where it came from. A more clear way to word this would be “....Selectmen shall make such complaints to any court of competent jurisdiction as in their judge are proper or may institute actions to restrain, remove or punish such violation.”

### **Notation 7 (Setbacks)**

#### Section 8A

The Selectmen have favored restoring setbacks to the previous ordinance with provisions of reducing the setbacks to 50-feet, and, with a further reduction possible to 10-feet. The Planning Board does not propose any change in the setback provision. This issue remains unresolved as of draft 5

### **Notation 8 (Setbacks)**

#### Section 8.A.2

The public water supply language has a potential of shifting the setback beyond reasonable control of the permit holder. This, at the moment, applies only to the Cold Spring Water Company, which recently purchased a parcel between a proposed pit and the Water company land. Does this push the setback of the pit further away because the parcel that previously was not held by the company is now held by the company? Some language clarification is needed on public water supply.

#### **Notation 9 (Setbacks)**

##### Section 8.A.3

There is a potential for someone to claim a private road is a subdivision road, though it does not serve a permitted subdivision. Addition of language to specify that the road is an approved subdivision road might be a good idea.

#### **Notation 10 (Setbacks)**

##### Section 8.A.4

There was some question about the wetland setback in a recent application. This might be an opportunity to clarify the questions raised.

#### **Notation 11 (Restoration)**

##### Section 8.D.1.e

Both drafts agree the language on the restoration deadline should change. The Planning Board language is in the blended version. The Selectboard proposal takes into account a “renewal”. The “renewal” deadline would be the date of submission for the next permit, which is actually a little earlier than the blended version. Perhaps some more compromise could include language that allows for a conditional approval upon completion of restoration under the previously issued permit, a deadline of the site visit, or some other language that can give a specific time for the CEO or Planning Board to confirm restoration.

#### **Notation 12 (Noise)**

##### Section 8.G.3

65 decibels is pretty low, depending on what is going on. The wind can create that much noise. Perhaps the notation should be made to say that it's 65Db in excess of ambient noise.

#### **Notation 13 (Adverse Effect)**

##### Section 8.L.

This is a difficult requirement to place as a performance standard – might this be expanded to require documentation showing either an adverse appraisal impact or not?

#### **Additional Notations**

The Blended revisions do not provide for an expedited renewal process. This was one of the desires of the Gravel Working Group and a distinct section was placed in the Selectmen's draft. Because the Blended Revisions contain a relaxed submission, the Selectmen's draft renewal process did not “fit” so to speak.

There should be more discussion about “renewals”, as the blended draft contains some reference to increased restoration requirements if the gravel operations area increases.